REMARKS

Claims 9-10, 16, 21, 23, and 25-33 are currently pending. Claims 9, 21, and 23 have been amended and new claims 29-33 have been added. Claims 11-15, 22, and 24 have been cancelled.

The Examiner objected to the specification for allegedly failing to provide proper antecedent basis for several terms. Specifically, the Examiner identified "contoured wall portion," "attachment point," "exposed portion," "upper portion," and "lower portion" as being omitted from the specification. Applicants point out that the originally filed claims are part of the specification and as such provide support for the terms. Nevertheless, Applicants have amended two paragraphs of the specification to include the terms. No new matter has been added as all of the terms, with the exception of "exposed portion," are simply alternative names for already described features.

With regard to the term "exposed portion," a short description including a new reference number has been added. No new matter has been added, as the exposed portion is simply the outer surface of the cover. It is inherent that a cover that has an inner surface 95 must also have an outer surface 96. In addition, both of these surfaces are visible in Figs. 2-4, 6, and 9-11. The reference number "96" has been added to Figs. 2-4, 6, and 9-11 to indicate the exposed surface.

The Examiner rejected claims 9-16, 21, and 24-28 under 35 U.S.C. §102(b) as being anticipated by Thurm (U.S. Patent No. 5,884,380).

Amended claim 9 defines a cover for a motorcycle oil tank assembly including an exposed surface, an inlet having an inlet aperture, and an oil cap removably engaged with the inlet and substantially sealing the inlet aperture. The cover includes a contoured wall portion

that defines an upper attachment portion, a lower attachment portion, and an inner surface. The upper attachment portion includes a first aperture that is engageable with a first oil tank protrusion and the lower attachment portion includes a second aperture that is engageable with a second oil tank protrusion to connect the contoured wall to the oil tank without the use of fasteners such that the inner surface faces the exposed surface and the contoured wall portion substantially covers the exposed surface of the oil tank.

Thurm does not teach or suggest a cover for an oil tank that includes a first aperture that is engageable with a first oil tank protrusion and a second aperture that is engageable with a second oil tank protrusion to connect the cover to the oil tank without the use of fasteners. Rather, Thurm discloses a cover for a fuel tank that includes a plurality of attachment apertures. The apertures align with the attachment apertures of the fuel tank to allow the fuel tank bolts to be used to attach both the cover and the fuel tank to the motorcycle. Thus, there are no apertures that engage with protrusions in the fuel tank to attach the cover to the fuel tank. In addition, the cover cannot be attached to the fuel tank without the use of the fuel tank fasteners.

In light of the foregoing, Thurm does not teach or suggest each and every limitation of claim 9. As such, claim 9 is allowable. In addition, claims 10, 16, and 29-33 depend from claim 1 and are allowable for these and other reasons.

Amended claim 21 defines a motorcycle that includes a frame, a front wheel coupled to the frame, and a rear wheel coupled to the frame. An engine is coupled to the frame and is adapted to propel the motorcycle. A substantially plastic oil tank is coupled to the frame and is adapted to contain oil used to lubricate the engine. The oil tank has an exposed surface, an inlet having an inlet aperture, and an oil cap removably engaged with the inlet and

substantially sealing the inlet aperture. A substantially metallic cover includes a contoured wall portion that defines an inner surface and an attachment point. The attachment point is adapted to connect the contoured wall to the oil tank such that the inner surface faces the exposed surface and the contoured wall portion substantially covers the exposed surface of the oil tank.

Thurm does not teach or suggest, among other things, a substantially plastic oil tank and a substantially metallic cover attached to the oil tank such that the cover substantially covers the exposed surface of the oil tank. Rather, Thurm discloses a cover for a metal fuel tank. The cover is advantageously formed using a vacuum molding process. *See col. 4, lines 48-57.* Preferably, the cover is made from a "1/8 inch thick sheet of plastic ABS d.o.t. 184." *Col. 4, lines 61-62.* Thus, the preferred cover, as taught by Thurm, is made from a plastic material. In addition, Thurm states that "[b]ecause motorcycle gas tanks on motorcycles are exposed, dents or scratches in the paint are visible." *Col. 2, lines 13-14.* Furthermore, Thurm states "[t]he present invention provides a motorcycle gas tank cover made of a material that retains its shape." *Col. 2, lines 41-42.* Thus, Thurm teaches that metal, such as is used to make the fuel tank, is a material that does not "retain its shape." Rather, metal can dent, thus requiring repair. Given the teachings of Thurm, it would make no sense to use a metal cover to cover a metal fuel tank, as the cover would be no less susceptible to damage than the fuel tank itself. Furthermore, Thurm makes no suggestion that the metal fuel tank should be replaced with a plastic fuel tank. As such, Thurm teaches that metal is not suitable for use in forming the cover and thus teaches away from the invention recited in claim 21.

In light of the foregoing, Thurm does not teach or suggest each and every limitation of Claim 21. As such, claim 21 is allowable. In addition, claims 25-28 depend from claim 21 and are allowable for these and other reasons.

The Examiner rejected claims 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over Thurm in view of Natsume (Japanese Patent No. JP407291169).

Claim 22 has been cancelled rendering the rejection moot. Claim 23 depends from claim 21 and adds that the oil tank is injection molded.

Thurm does not teach or suggest each and every limitation of claim 21, much less the limitations of claim 23. Rather, Thurm teaches a vacuum molded plastic cover for use with a metallic fuel tank. There is no suggestion that metal could be used for the cover. In fact, Thurm teaches away from the use of metal as discussed with regard to claim 21. In addition, Thurm makes no mention of a plastic tank, much less a method of manufacturing a plastic tank. Natsume does not cure the deficiencies of Thurm. Natsume discloses a motorcycle that includes a plastic fuel tank. However, Natsume does not teach or suggest covering the tank with a substantially metallic cover that is coupled to the fuel tank.

In light of the foregoing, Thurm and Natsume, alone or in combination, do not teach or suggest each and every limitation of claim 23. As such, claim 23 is allowable.

CONCLUSION

In light of the foregoing, Applicants respectfully submit that Claims 9-10, 16, 21, 23, and 25-33 are allowable.

The undersigned is available for telephone consultation during normal business hours.

Respectfully submitted,

Thomas J. Otterlee
Reg. No. 48,652

Docket No.: 043210-1541-01
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4108

(414) 271-6560

Amendments to the Drawings

The attached drawing sheets (six (6) total) include revised drawings for Figs. 2-4, 6, and 9-11. The sheets, which include Figs. 2-6 and 9-11, replace the original sheets that included Figs. 2-6 and 9-11.